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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/619,728

07/15/2003

Daniel P. Shevlin

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04/18/2006

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EXAMINER

PHAM, HUONG Q

ART UNIT

PAPER NUMBER

3764

DATE MAILED: 04/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/619,728

Applicant(s)

SHEVLIN, DANIEL P.

Examiner

Huong Q. Pham

Art Unit

3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-44 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| <p>1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)</p> <p>2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</p> <p>3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/4/2004</u>.</p> | <p>4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.</p> <p>5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</p> <p>6) <input type="checkbox"/> Other: ____.</p> |
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DETAILED ACTION

Specification

The disclosure is objected to under 37 CFR 1.71, as being incomprehensible.

The following item is not understood: it is unclear what device is the "external fixation device", and the function of this device is not mentioned in the specification. Applicant is required to submit an amendment which clarifies the disclosure so that the examiner may make a proper comparison of the invention with the prior art.

Applicant should be careful not to introduce any new matter into the disclosure (i.e., matter which is not supported by the disclosure as originally filed).

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the recited foam material and external woven material must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet,

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and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 7-8, 10-12, 15-19, 21-22, 24-26, 28-34, 36-37, 39-41, 43-44 are rejected under 35 U.S.C. 102(b) as being anticipated by Tobler et al (5,626,556).

Tobler et al teaches every claimed feature of the claims including a compression device adapted to accommodate an external fixation device, comprising at least one fluid-impermeable bladder adapted to contain a fluid; and at least one region 42 adapted to receive and accommodate one portions of an external fixation device 46b,

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the device adapted to be positioned about a portion of a user's body such that an opening 50b or 44 (figure 2) formed within the region 42 capable of receiving and accommodating the one external portions of the external fixation device, the device further adapted to apply intermittent compression to the portion of the user's body according to increases and decreases in fluid pressure in the bladder while the device is positioned about the portion of the user's body and is accommodating the external fixation device 48. As for claims 2-3, note the seal 34. As for claims 4- 5, note that the openings 50b, 44 are capable of being cut to customize the device to accommodate the external fixation device 46b. As for claim 7, note the visible cut line 34 . As for claim 8, note the connector 48. As for claims 10, 12, note straps 56c, 56b, 56a (figure 1) and the hook and loop material. As for claim 11, note openings 50b, 44. As for claims 15-19, 21-22, 24-34, 36-37, 39-41, 43-44, Tobler et al teaches the recited steps.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6, 20, 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tobler et al (5,626,556) in view of Keshavaraj (6,502,853).

Note the comments above for the teaching of Tobler et al. Keshavaraj teaches an airbag with stitching 12 applied to the heat weld seal (note figure 3) for preventing gas to leak . In view of the teaching of Keshavaraj , it would have been obvious to one ordinary skill in the art at the time the invention was made to provide the double seal 34 of Tobler et al with stitching to prevent leaking of the air and to insure that if the opening 50b or 44 is cut or damage, the air is sealed inside the compression sleeve.

Claims 9, 23, 38 are rejected under 35 U.S.C. U.S.C. 103(a) as being unpatentable over Tobler et al (5,626,556).

Note the comments above for the teaching of Tobler et al. Note that the recited combination valve and connector is well known in the art. It would have been obvious to one ordinary skill in the art at the time the invention was made to provide or choose a connector with a valve for the device of Tobler et al in order to maintain or control the fluid pressure in the bladder.

Claims 13, 14, 27, 42 are rejected under 35 U.S.C. U.S.C. 103(a) as being unpatentable over Tobler et al (5,626,556) in view of Murphy (5,893,184).

Note the comments above for the teaching of Tobler et al. Murphy teaches a bladder 98 with foam layer 180 and a cover 186. In view of the teaching of Murphy , it would have been obvious to one ordinary skill in the art at the time the invention was made to provide the bladder of Tobler et al with a foam layer and a cover for cushioning

and comfort of a user. As for claim 14, note the rounded edge portion of the device of Tobler et al (figure 1).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huong Q. Pham whose telephone number is (571) 272-4980. The examiner can normally be reached on 7:15 AM - 3:45 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on (571) 272 - 4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

April 14, 2006



MICHAEL A. BROWN
PRIMARY EXAMINER